

**75<sup>th</sup> JUDICIAL CONFERENCE OF THE SIXTH CIRCUIT  
MAY 15-18, 2018  
NASHVILLE, TENNESSEE**

*Last Updated February 14, 2018*

**TUESDAY, MAY 15, 2018**

***NOTE: All Programming is Based on Central Daylight Savings Time***

**5:30 P.M.      Opening Reception - *The Westin Nashville***

**WEDNESDAY, MAY 16, 2018**

**8:15 A.M. Welcome and Opening Remarks**

**8:30 A.M. - Contempt of Court - Plenary**

**9:45 A.M.** A century ago, a young black man from East Tennessee was falsely accused of rape and railroaded through the criminal justice system. The judge appointed unqualified lawyers and told them they didn't have to do any work on his case. Those lawyers convinced their client to waive his rights to appeal and accept the death sentence.

The only two African-American lawyers practicing in Tennessee and Georgia stepped forward to file the first federal habeas corpus petition in a state criminal case on his behalf. They convinced the U.S. Supreme Court to intervene, only to have an angry lynch mob burn their homes, chase them out of town and murder their client.

This program chronicles the amazing story of Ed Johnson and his two heroic lawyers – a story buried in dusty old law books for decades and brought to life by lawyer/journalist Mark Curriden.

This historical story features the first lawyers of color to be lead counsel in a case before the Supreme Court. It also showcases the first and only criminal trial ever conducted before the Supreme Court. Experts say this little-known case dramatically reformed the American justice system and redefined the practice of law.

This program exemplifies why lawyers as advocates for the poor and downtrodden are best positioned to take the steps necessary to uphold the rule of law. The program also highlights the role the judiciary plays in protecting the rights of citizens.

**Introduction**

The Honorable Pamela L. Reeves  
United States District Judge  
Eastern District of Tennessee

**Speaker**

Mark Curriden, Esq.  
Award-Winning Legal Journalist  
Bestselling Author

**9:45 A.M. Break**

**10:00 A.M. - Breakout Sessions**

**11:00 A.M.**

**1. Essential Knowledge for Federal Litigation (*will be repeated*)**

Geared toward less experienced federal litigators or as a refresher for the moderately experienced litigator, a panel will discuss the basics such as jurisdiction, discovery, motion practice and special trial procedures. The panel, including experienced federal judges, will also cover some of the “do’s and don’ts” in federal litigation practice.

**Presiding**

The Honorable David M. Lawson  
United States District Judge  
Eastern District of Michigan

**Panelist(s)**

TBD

**WEDNESDAY, MAY 16, 2018, cont'd.**

**2. Discovery of Social Media and Mobile Devices**

This panel will answer questions about discovery as it pertains to social media accounts and mobile devices with information you wanted to know but were too afraid to ask about topics including: ephemeral data, services like Snapchat, Instagram, Wickr, etc. The panel looks closely at this new information landscape to help you understand its significance and implications for the future of discovery practice and litigation.

**Presiding**

TBD

**Panelist(s)**

TBD

**3. Current Issues Involving Claims in Bankruptcy**

A panel, including a bankruptcy judge, a national bank in-house counsel, and the leader of a large law firm specializing in bankruptcy accounts, will discuss a wide range of current topics relating to claims in bankruptcy – and how to pursue them and defend against objections. Among the issues expected to be covered are: recent amendments to bankruptcy rules involving filing claims; problems arising when mortgage claims are not filed or are deficient; the effect of disallowance of a claim on a lien; late-filed claims, stale claims, amendments to claims, and much more. Changes in the applicable rules, various recent court decisions, problems with the constant selling of claims and transferring of servicing, and the intervention of the government in certain consumer protection areas have all made the bankruptcy claims process a more difficult and uncertain area for judges and lawyers alike. Panelists will provide their insights and guidance on current trends in this area of the law.

**Presiding**

TBD

**Panelists**

The Honorable Tracey N. Wise  
Chief United States Bankruptcy Judge  
Eastern District of Kentucky

Michael T. Bates, Esq.  
JPMorgan Chase Bank, N.A.  
Fort Worth, Texas

Alane A. Becket, Esq.  
Becket & Lee LLP  
Malvern, Pennsylvania

**4. New Perspectives on Appellate Litigation**

Description pending.

**Presiding**

TBD

**Panelists**

TBD

**WEDNESDAY, MAY 16, 2018, cont'd.**

**11:10 A.M. - Breakout Sessions**

**12:10 P.M.**

**1. Breakout Session To Be Determined.**

**Presiding**

TBD

**Panelists**

TBD

**2. Case Management on Steroids *(will be repeated)***

For the more experienced federal litigator, the panel will discuss the importance of early factual and legal issue identification and consideration of whether any of such issues may be case dispositive. The panel will also discuss discovery issues, including e-discovery and discovery proportionality, as well as the impact of the proportionality requirement on trial preparation. The panel will also focus on evaluating costs and considering early ADR options.

**Presiding**

The Honorable Aleta Arthur Trauger  
United States District Judge  
Middle District of Tennessee

**Panelist(s)**

TBD

**3. Election Law**

Description pending.

**Presiding**

TBD

**Panelist(s)**

TBD

**WEDNESDAY, MAY 16, 2018, cont'd.**

**4. Civil and Criminal Practice Before United States Magistrate Judges: A Primer (will be repeated)**

Sixth Circuit practitioners in the U.S. District Courts often ask questions about United States Magistrate Judges, such as: What is a Magistrate Judge, and what is the authority of a Magistrate Judge when ruling in civil and criminal cases? When do Magistrate Judges issue a Report & Recommendation, and when does an Order issue? How do counsel consent to a Magistrate Judge? When do lawyers object and when do they appeal? These and other questions about Magistrate Judge practice will be discussed and answered in this practical, hour-long session co-chaired by U.S. Magistrate Judges Michael J. Newman (S.D. Ohio) and James R. Knepp (N.D. Ohio). Magistrate Judges from throughout the Sixth Circuit will serve as panelists.

**Presiding**

The Honorable James R. Knepp, II  
United States Magistrate Judge  
Northern District of Ohio

and

The Honorable Michael J. Newman  
United States Magistrate Judge  
Southern District of Ohio

**Panelist(s)**

TBD

**12:30 P.M. - Luncheon – Guest Speaker Ganesh Sitaraman**  
**1:45 P.M.**

Professor Sitaraman is the author of *The Crisis of the Middle-Class Constitution: Why Economic Inequality Threatens Our Republic* (Alfred A. Knopf, 2017), and *The Counterinsurgent's Constitution: Law in the Age of Small Wars* (Oxford University Press, 2012), which won the 2013 Palmer Civil Liberties Prize. He has commented on foreign and domestic policy in *The New York Times*, *The New Republic*, *Boston Globe*, among other places. An Eagle Scout and a Truman Scholar, he earned his A.B. in government magna cum laude at Harvard, a master's degree in political thought and intellectual history from Emmanuel College, Cambridge, where he was the Lionel de Jersey Harvard Scholar, and his J.D. magna cum laude from Harvard Law School, where he was an editor on the Harvard Law Review. He is a principal of the Truman National Security Project and a Term Member of the Council on Foreign Relations, as well as a Professor of Law at Vanderbilt Law School.

## **WEDNESDAY, MAY 16, 2018, cont'd.**

**2:00 P.M. - Breakout Sessions**

**3:00 P.M.**

**1. TVA v. the Snail Darter: The Hidden Story Behind “the Nation’s Most Extreme Environmental Case” (TVA v. Hill, et al., 37 U.S. 153 (1978)) (will be repeated)**

With the discovery of a tiny endangered fish in the middle of TVA’s plan to build Tellico Dam, the last of 68 dams on the Tennessee River System, 19-years of citizen opposition to the project took on new life. Thanks to the Endangered Species Act of 1973, the snail darter was instantly transformed into both an icon for species preservation and a despised symbol of the environmental movement’s alleged excesses. It’s been called the nation’s “most extreme environmental case ever,” where “hypocritical eco-activists” cynically mis-used a tiny fish of no value to block a huge, \$160-million dollar, hydroelectric dam.

The intense legal battle that ensued over the darter’s fate was contested all the way to the Supreme Court. *TVA v. Hill*, the Court’s first decision interpreting the Endangered Species Act, in 1978, has been recognized as one of the Court’s two most significant environmental law cases. The Supreme Court, intervening in an intragovernmental dispute between the TVA and the Department of Interior, affirmed the 6th Circuit’s injunction prohibiting the TVA from completing Tellico Dam. The case lives on in political discourse as a harsh example of eco-extremism. The actual story, however, may be surprising, including the fact that this last dam was not justified as a hydro project, but rather for land development of an imaginary city, and recreation, condemning 300 family farms primarily for re-sale at agency profit.

The law professor who, along with his students and Tennessee farmers, fought the congressional battles, and won the Supreme Court case and a Cabinet-level economic review, tells the hidden story behind one of the nation’s most significant environmental law conflicts. See video pre-view: [goo.gl/ecQ158](http://goo.gl/ecQ158); and a book about the saga, *THE SNAIL DARTER & THE DAM* (Yale Univ. Press).

**Presiding**

TBD

**Speaker**

Zygmunt J. B. Plater

Professor of Law

Boston College Law School

**2. Sentencing – Judicial Decision Making**

Description pending.

**Presiding**

TBD

**Panelists**

Tracy E. George

Associate Provost for Faculty Affairs

Charles B. Cox III and Lucy D. Cox Family Chair in Law and Liberty

Professor of Political Science

Director, Cecil D. Branstetter Litigation & Dispute Resolution Program

Vanderbilt Law School

Chris Guthrie

Dean, John Wade-Kent Syverud Professor of Law

Associate Dean for Academic Affairs

Vanderbilt Law School

**WEDNESDAY, MAY 16, 2018, cont'd.**

**3. Jury Instructions**

Jury instructions serve multiple purposes -- they can be used to guide the lawyers through the trial preparation process, from initial disclosures to discovery to trial and closing arguments, and they provide the jury with the law that they are to apply to the facts that they find. Despite their importance, however, it appears that lawyers tend to view instructions as an issue for the court to address. For more experienced federal litigators as well as for litigators who want to gain trial experience, this panel will focus on using jury instructions in a broader way, as well as how they can be made more effective, and perhaps simpler, for the jury.

**Presiding**

The Honorable Sheryl H. Lipman  
United States District Judge  
Western District of Tennessee

**Panelist(s)**

TBD

**4. Breakout Session To Be Determined.**

**Presiding**

TBD

**Panelist(s)**

TBD

**3:00 P.M.      Break**

**3:15 P.M. -      District Breakout Sessions  
4:45 P.M.**

**5:45 P.M. -      Life Members' Reception (location TBD)  
8:15 P.M.      *Open to all conference registrants***

**THURSDAY, MAY 17, 2018**

**8:30 A.M. - Reentry Courts “Pull of Gravity” - Plenary**

**9:45 A.M.**

When people hear the term “criminal justice,” thoughts of police arrests, prosecutors, defense attorneys, jury trials and prison often come to mind. As law enforcement agencies continue to do more with less in these difficult economic times, it has become increasingly clear that we need to focus on programs that help prevent crime and that will help past offenders reintegrate into our communities as productive citizens. While incarceration serves an important societal goal of keeping dangerous offenders off the streets, the reality is that most offenders eventually return to the community. Without a comprehensive plan which addresses crime prevention and reentry issues, the cyclical nature of crime by repeat offenders will continue.

A panel will discuss the establishment and efficacy of a reentry program in the Eastern District of Pennsylvania in particular, as well as aspects of programs in other jurisdictions. The Eastern District of Pennsylvania program's objectives include preventing recidivism, reducing the high rate of violent crime in the City of Philadelphia, and assisting high-risk returning citizens with multiple social, family, and logistical issues they confront upon their return to society after years in prison. Intensive judicial oversight supplements the Probation Office's supervisory regime, with ongoing input from the Federal Public Defender and the U.S. Attorney.

The most unique aspect of the program is the group dynamic. All participants attend court as a group and are required individually to discuss their accomplishments and identify any obstacles they are encountering in the reentry process. This dialogue leads to the establishment of goals for the participant to achieve before the next court session. If the participant is not complying with the goals of the program or is violating the terms of release, graduated sanctions are imposed and explained to the entire group. Uniform sanctions, access to social services, job opportunities, cognitive behavioral therapy, legal assistance related to collateral issues confronting individuals returning to the community and positive reinforcement are among the tools employed to foster positive changes in behavior and thereby avoid revocation proceedings.

**Presiding**

The Honorable Luis Felipe Restrepo  
United States Circuit Judge  
Third Circuit Court of Appeals

**Panelists**

Jennifer A. Williams, Esq.  
Assistant United States Attorney  
Chief, National Security and Cybercrimes  
Philadelphia, Pennsylvania

Fred Crawford  
Supervisory Probation Officer  
Pennsylvania Eastern Probation Office  
Philadelphia, Pennsylvania

Darryl Booker  
Supervision to Aid Reentry (STAR) Program Graduate  
Philadelphia, Pennsylvania

**9:45 A.M. Break**



**THURSDAY, MAY 17, 2018, cont'd.**

**10:00 A.M. - Breakout Sessions**

**11:00 A.M.**

**1. TVA v. the Snail Darter: The Hidden Story Behind “the Nation’s Most Extreme Environmental Case” (TVA v. Hill, et al., 37 U.S. 153 (1978) (repeated)**

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**Presiding**

TBD

**Speaker**

Zygmunt J. B. Plater  
Boston College Law School  
Boston, Massachusetts

**THURSDAY, MAY 17, 2018, cont'd.**

**2. Civil and Criminal Practice Before United States Magistrate Judges: A Primer *(repeated)***

Sixth Circuit practitioners in the U.S. District Courts often ask questions about United States Magistrate Judges, such as: What is a Magistrate Judge, and what is the authority of a Magistrate Judge when ruling in civil and criminal cases? When do Magistrate Judges issue a Report & Recommendation, and when does an Order issue? How do counsel consent to a Magistrate Judge? When do lawyers object and when do they appeal? These and other questions about Magistrate Judge practice will be discussed and answered in this practical, hour-long session co-chaired by U.S. Magistrate Judges Michael J. Newman (S.D. Ohio) and James R. Knepp (N.D. Ohio). Magistrate Judges from throughout the Sixth Circuit will serve as panelists.

**Presiding**

The Honorable James R. Knepp, II  
United States Magistrate Judge  
Northern District of Ohio

and

The Honorable Michael J. Newman  
United States Magistrate Judge  
Southern District of Ohio

**Panelist(s)**

TBD

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**Presiding**

The Honorable Aleta Arthur Trauger  
United States District Judge  
Middle District of Tennessee

**Panelist(s)**

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**4. Essential Knowledge for Federal Court Practice *(repeated)***

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**Presiding**

The Honorable David M. Lawson  
United States District Judge  
Eastern District of Michigan

**Panelist(s)**

TBD

**THURSDAY, MAY 17, 2018, cont'd.**

**11:10 A.M. – Breakout Sessions**

**12:10 P.M.**

**1. Opioid Litigation & Crisis**

Description pending.

**Presiding**

TBD

**Panelist**

Sam Quinones

Journalist and Author

Dreamland: The True Tale of America's Opiate Epidemic

**2. CJA Review Report**

The Chair of the Committee to Review the Criminal Justice Act and others will discuss the Committee's report and recommendations. The report is the culmination of two years of work including public hearings and submissions from hundreds of judges, practitioners and interested parties and represents the first comprehensive review of the Criminal Justice Act in nearly twenty-five years. Conference attendees are invited to pose questions.

**Moderator**

Doris Randle-Holt, Esq.

Federal Public Defender

Western District of Tennessee

**Panelists**

The Honorable Jeffery (Chip) S. Frensley

United States Magistrate Judge

Middle District of Tennessee

Cait T. Clarke, Esq.

Chief, Defender Services Office

Administrative Office of the United States Courts

Washington, DC

**THURSDAY, MAY 17, 2018, cont'd.**

**3. Using Chapter 11 to Sell Rather than Reorganize**

A panel including a bankruptcy judge, two experienced practitioners, and a financial advisor with expertise in Chapter 11 cases will discuss a wide range of current topics relating to sales of businesses in bankruptcy. Chapter 11 is often used as a mechanism to facilitate sales rather than to reorganize a business, and that has changed the focus of many cases. The panel is expected to discuss topics such as: how fast is too fast to sell substantially all the assets; surviving long enough to sell; trends in effective ways to sell troubled businesses; “stalking horses” and breakup fees; how much notice is enough; what does “free and clear” really mean; successor liability in a bankruptcy sale; selling assets when government approval is involved; attempts to provide releases as part of a sale; and other related topics.

**Presiding**

The Honorable Jeffery P. Hopkins  
Chief United States Bankruptcy Judge  
Southern District of Ohio

**Panelist(s)**

William Henrich  
Getzler Henrich & Associates LLC  
New York, New York

Stephen Lerner, Esq.  
Squire Patton Boggs, LLP  
Cincinnati, Ohio

Kay Standridge Kress, Esq.  
Pepper Hamilton, LLP  
Southfield, Michigan

**4. Artificial Intelligence and Implications for Judges, Lawyers, and the Legal Profession**

Description pending.

**Presiding**

TBD

**Panelist(s)**

TBD

**6:00 P.M.      Reception and Banquet – Country Music Hall of Fame**

**Welcome and Introduction**

The Honorable R. Guy Cole, Jr.  
Chief United States Circuit Judge  
Sixth Circuit Court of Appeals

**Guest Speakers**

The Honorable Elena Kagan  
Associate Justice  
Supreme Court of the United States

Jon Meacham

Pulitzer Prize-Winning Author and Historian

Jon Meacham is a renowned presidential historian, contributing writer to *The New York Times Book Review*, contributing editor at TIME, and Pulitzer Prize-winning author.

**American Inns of Court Professionalism Award**

**FRIDAY, MAY 18, 2018**

**8:30 A.M. - 10:10 A.M.    150<sup>th</sup> Anniversary of the 14<sup>th</sup> Amendment – Plenary**

In 1868, the 14<sup>th</sup> Amendment to the Constitution of the United States granted citizenship and equal civil and legal rights to African Americans and slaves who had been emancipated after the American Civil War, including them under the umbrella phrase “all persons born or naturalized in the United States.” 150 years later a panel of legal scholars will discuss the 14<sup>th</sup> Amendment and the impact of equal protections it affords on legal decisions over time and in everyday life.

**Moderator**

Professor Kenneth W. Mack  
Lawrence D. Biele Professor of Law  
Harvard Law School

**Panelist(s)**

Michael Les Benedict  
Emeritus Professor  
Department of History  
The Ohio State University

Michael Klarman  
Kirkland & Ellis Professor of Law  
Harvard Law School

Suzanna Sherry  
Herman O. Loewenstein Chair in Law  
Vanderbilt Law School

David Strauss  
Gerald Ratner Distinguished Service Professor of Law  
Faculty Director of the Jenner & Block Supreme Court and Appellate Clinic  
University of Chicago Law School

**10:10 A.M. - 10:30 A.M.    Report on Circuit-Wide Civics Outreach – Plenary**

**Presiding**

The Honorable Curtis Collier  
United States District Judge  
Eastern District of Tennessee

and

The Honorable Michael J. Newman  
United States Magistrate Judge  
Southern District of Ohio

**10:45 A.M. - 12:15 P.M.    Supreme Court Review – Plenary**

**Presiding**

The Honorable Jane B. Stranch  
United States Circuit Judge  
Sixth Circuit Court of Appeals

**Panelist(s)**

Erwin Chemerinsky  
Dean, Jesse H. Choper Distinguished Professor of Law  
University of California, Berkeley

**ADJOURN**